



Federal Accounting Standards Advisory Board

August 1, 2003

TO: Members of FASAB

FROM: Richard Fontenrose, Assistant Director

THROUGH: Wendy Comes, Executive Director

SUBJECT: Responses to the Exposure Draft *Accounting for Fiduciary Activities*¹

This Tab presents the eight responses to the exposure draft *Accounting for Fiduciary Activities* received as of July 31. Although there are several requests for minor changes, all responses except for the Interior Department's (see response #8) are relatively brief and generally agree with the ED. The Interior Department concurs with the definition of fiduciary activities but disagrees with the presentation of fiduciary assets as assets of the Interior Department or of the Federal Government.

Also, representatives of the Departments of Defense and Energy (Western Area Power Administration), and of the Securities and Exchange Commission indicate that they will be submitting comments.

Comments no doubt will be received after today's date. A reminder notice was electronically posted on July 28. The stated deadline in the ED, as you know, is July 31, but the Board normally keeps the comment window open as long as possible. We will, of course, continue to provide copies of the comment letters as they come in, as well as the usual summary.

The staff objective for August 13 is to review the comments received as of August 12, discuss the issues raised and possible improvements for the standard, and consider whether a hearing should be held with respect to this proposed standard either separately or in conjunction with the proposed standard on earmarked funds.

Should you have questions or concerns or for any reason wish to discuss the responses or any other subject please call me (202-512-7358).

¹ The staff prepares Board meeting materials to facilitate discussion of issues at the Board meeting. This material is presented for discussion purposes only; it is not intended to reflect authoritative views of the FASAB or its staff. Official positions of the FASAB are determined only after extensive due process and deliberations.



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

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8/18/03

July 23, 2003

Ms. Wendy M. Comes
Executive Director
Federal Accounting Standards Advisory Board
441 G Street, N.W.
Washington, D.C. 20548

Dear Ms. Comes:

As requested by the Federal Accounting Standards Advisory Board, enclosed is the Department of Commerce's response to the questions on the exposure draft titled "Accounting for Fiduciary Activity."

Thank you for providing us with the opportunity to comment on this draft Chapter. If you have any questions regarding our comments, please contact Tony Akande of my staff at 202-482-0239.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Taylor", written over the printed name.

James L. Taylor
Deputy Chief Financial Officer and
Director for Financial Management

Enclosure

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pg 283

**The Department of Commerce's Response to Questions on
FASAB Exposure Draft - *Accounting for Fiduciary Activities***

1. Do you agree with the definition of fiduciary activities? See paragraph 11 for the definition, paragraphs 12-14 for characteristics, and paragraphs 62-74 in the basis for conclusions for the rationale.

Yes, we agree with the definition of fiduciary activities. However, a clearer distinction needs to be made between fiduciary activities and fiduciary capacity (i.e. seized property). The definition and characteristics hint that seized property is covered by this standard by such statements as "Non-Federal parties must have an ownership interest in cash or other assets held by the Federal entity under provision of law, regulation, or other fiduciary arrangement," and "Occasionally, a Federal entity may receive assets other than cash under a fiduciary arrangement; e.g., real or personal property held temporarily pending disposition." But, paragraph 17 of the exposure draft clearly states that accounting requirements for seized property are covered by SFFAS 3.

2. Do you agree with the accounting treatment of fiduciary assets? See paragraphs 15-36 and 41 for the accounting standard with respect to Federal component entities; and, see paragraphs 37-40 and 41 for the standard regarding the Financial Report of the United States Government. See paragraphs 75-81 in the basis for conclusions for the rationale.

Yes, we agree with the accounting treatment of fiduciary assets. However, we suggest that FASAB specify that Fiduciary liabilities be reported as "Other Liabilities."

Paragraphs 19, 21, 25, and 27 contradict OMB 01-09, Form and Content of Agency Financial Statements by stating that Fiduciary assets should "be reported as non-entity assets on the face of the entity's balance sheet." OMB 01-09 states "Combine entity and non-entity assets on the face of the balance sheet and disclose non-entity assets in the footnotes.

3. Do you agree that the information in paragraph 32 should be required for note disclosure? See paragraphs 32-35 for the accounting standard and paragraphs 75-81 in the basis for conclusions for the rationale for the accounting treatment generally.

Yes, we agree that note disclosure should be required for all three methods for the Federal Government to hold fiduciary assets. The reader of the financial statements would be put on notice that a fiduciary relationship exists by reviewing the balance sheet, but the circumstances of the relationship would be incomplete without disclosure information.

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4. Do you agree with the requirement in paragraph 33 that, with respect to certain financial information required in paragraph 32, there should be separate columns for major activity, all other activity, and total activity? A fiduciary activity would be major if it is equal to or greater than 25 percent of the value of the entity's total fiduciary activity. If you do not agree, what display would you recommend?

We do not agree. We believe this requirement is above what is needed for an average and reasonable financial statement reader. Also, providing this much detail in the Non-entity footnote may overshadow other (and probably larger) non-entity assets which currently only require balance identification. A reader can derive the activity by comparing the change in the reported balance from one year to the next.

5. Do you agree that fiduciary assets held in the name of the Federal component entity should be reported in the Financial Report of the United States Government, that is, not eliminated during consolidation? See paragraphs 37-40 for the accounting standard and also see paragraph 77 in the basis for conclusions.

Yes, we agree that fiduciary assets held in the name of the Federal component entity should be reported in the Financial Report of the United States Government.

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pg 1061

From: <Matt.Smargiasso@bpd.treas.gov>
To: <comesw@fasab.gov>
Date: 7/25/03 2:14PM
Subject: Comments on the Accounting for Fiduciary Activities Exposure Draft

I am the manager of the Trust Fund Management Branch in the Office of Public Debt Accounting at the Bureau of the Public Debt. Our role is to manage 15 large government trust funds financed by excise or payroll taxes.

My staff has reviewed the draft and we offer the following general comments.

There was an interesting but continuous effort to clarify what this standard applies to throughout the document; trying to differentiate trust funds that are fiduciary and those that are not. Our comment is that we don't think you succeeded despite the effort. Would it not be easier just to maintain a list by Account Fund Symbol? It seems to us that maintaining a list would be easier than, and ultimately consume less resources than, us arguing among ourselves whether state accounts in the Unemployment Trust Fund are fiduciary.

We believe that this definition should be made clearly at the Account Fund Symbol level, even though there may be some activity that is fiduciary within AFS reporting but where the entirety of the program is not fiduciary.

We think this approach could streamline the entire draft and ultimately make the document more usable.

The overall accounting treatment proposed seems logical to us.

Thank you for the opportunity to comment. If you have any question, you can reach me at 304-480-5120.

Matt

CC: <Judy.Sheppard@bpd.treas.gov>, <Randa.Yoak@bpd.treas.gov>, <Ron.Iroff@bpd.treas.gov>, <Susan.Chapman@bpd.treas.gov>

(3)
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From: "Kovlak, Daniel L" <dkovlak@kpmg.com>
To: "Wendy Comes (E-mail)" <comesw@fasab.gov>
Date: 7/29/03 9:05AM
Subject: Fiduciary Activities ED Response

Wendy,

Attached is our response to the Fiduciary Activities ED.

Please call if you have any questions.

Thanks and best wishes,

Dan Kovlak
KPMG LLP
DC Tele: 202-533-6072
DC Fax: 202-533-8525
email: dkovlak@kpmg.com

> <<FASAB ED Fid Activity.doc>>
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CC: "Hummel, John H" <jhummel@kpmg.com>, "Dudley, Diane L" <ddudley@kpmg.com>

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7/2/03

July 29, 2003

Wendy M. Comes, Executive Director
Federal Accounting Standards Advisory Board
441 G Street, NW, Mailstop 6K17
Washington, DC 20548

Subject: Response to Exposure Draft of Statement of Federal Financial Accounting Standards, *Accounting for Fiduciary Activities*

Dear Ms. Comes:

We are pleased to have the opportunity to provide our comments on the Exposure Draft of Statement of Federal Financial Accounting Standards, *Accounting for Fiduciary Activities*.

Overall, we agree with the Exposure Draft. Our responses to the specific questions in the Exposure Draft are included in the Attachment A. We also have specific suggestions/recommendations that are included in Attachment B.

If additional information or clarification is needed regarding our comments, please feel free to contact Dan Kovlak at 202-533-6072 or dkovlak@kpmg.com.

Very truly yours

KPMG LLP

KPMG LLP's
Response to Questions in the Exposure Draft of Statement of Federal Financial Accounting Standards, *Accounting for Fiduciary Activities*

- 1) Do you agree with the definition of fiduciary activities? See paragraph 11 for the definition, paragraphs 12-14 for characteristics, and paragraphs 62-74 in the basis for conclusions for the rationale.

Yes.

- 2) Do you agree with the accounting treatment of fiduciary assets? See paragraphs 15-36 and 41 for the accounting standard with respect to Federal component entities; and, see paragraphs 37-40 and 41 for the standard regarding the Financial Report of the United States Government. See paragraphs 75-81 in the basis for conclusions for the rationale.

Yes.

- 3) Do you agree that the information in paragraph 32 should be required for note disclosure? See paragraphs 32-35 for the accounting standard and paragraphs 75-81 in the basis for conclusions for the rationale for the accounting treatment generally.

Yes.

- 4) Do you agree with the requirement in paragraph 33 that, with respect to certain financial information required in paragraph 32, there should be separate columns for major activity, all other activity, and total activity?

Yes.

- 5) Do you agree that fiduciary assets held in the name of the Federal component entity should be reported in the Financial Report of the United States Government, that is, not eliminated during consolidation? See paragraphs 37-40 for the accounting standard and also see paragraph 77 in the basis for conclusions.

Yes.

Attachment B

KPMG LLP's

Specific comments/recommendations on the Exposure Draft of Statement of Federal Financial Accounting Standards, *Accounting for Fiduciary Activities*.

On page 9, spell out the word "infra." in footnote 1.

Paragraph 33 refers to "Columns should be presented that report the fiduciary activity from the prior year." Please clarify whether this means the information required by paragraph 32. 2. (1) only, or all of the information required by paragraph 32.

Paragraph 36 uses the term "Custodial Activity." Consider defining this in the glossary.

On page 13, line 11, the word "or" should be changed to "of the."

In conjunction with paragraphs 46 through 49, consider adding a flowchart to the appendix showing how to determine fiduciary activity versus trust fund activity.

Review the format of all page references in the footnotes. In some cases "p." is used, in others, "pp." is used. (It is typical to see "pp." used when more than one page is referenced.)

In paragraph 55, the numbered items need to be renumbered. (The numbers 1 and 2 are used twice in the same listing.)

In paragraph 59, on line 30, the words "invested balances" should have a space between them. In this same paragraph, on lines 30 and 31, one use of "non-exchange" has a hyphen and the other does not. The hyphen should be used throughout the document.

In paragraph 60, line 33, the word "for" should be inserted after the word accounted.

In paragraph 64, please clarify if this is an "and" or "or" situation. Also, on pages 8 (paragraph 11) and 25 (line 38), there is another criterion which is "Judicial remedies must be available for the breach of the fiduciary obligation."

On page 27, line 13 should say "Non-Federal Individuals or Entities" to be consistent with line 8 on the same page.

On page 28, for each of the total lines presented, one is labeled, "Fiduciary net assets" and the other is labeled "Total Assets," but they have the same numbers. Please clarify.

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KPMG LLP's
Specific comments/recommendations on the Exposure Draft of Statement of Federal Financial Accounting Standards, *Accounting for Fiduciary Activities*.

On page 29, the word "the" should be inserted for item 5.a, between the words "reflecting" and "Federal."

On page 31, in the first column of the chart, the word "Compo." should be spelled out.

On page 34, 37, 40, and 42, FR should be spelled out in 2 places on each page.

On page 36, 39, and 41, GPEFR should be spelled out.

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Fg/ab

July 21, 2003

Wendy M. Comes, Executive Director
Federal Accounting Standards Advisory Board
441 G Street NW, Suite 6814
Mailstop 6K17V
Washington, DC 20548

Dear Ms. Comes:

The Department of Agriculture (USDA) appreciates the opportunity to comment on the exposure draft, *Accounting for Fiduciary Activities*. USDA generally agrees with the Board's proposed approach to accounting and reporting standards for fiduciary activities, related assets and liabilities in the general-purpose financial statements for Federal entities.

However, we have identified some areas of concern. Those concerns are:

- The proposed definition of fiduciary activity is still unclear in several areas. We understand that this subject is a difficult one, but a clearer definition is needed to comply with accounting and reporting requirements. It would be helpful if the final document were designed so that each type of fiduciary asset is described in a separate section.
- From our analysis, the definition of fiduciary activities does not appear to include wholly-owned government corporations due to the lack of enforceable ownership interest against the Federal government or judicial remedies for breach of fiduciary obligation. However, it is unclear whether a fiduciary relationship exists for mixed government corporations. For example, the Rural Telephone Bank (RTB) will become a mixed corporation when RTB attains 51 percent non-federal ownership.
- Does the fiduciary activities methodology impact the accounting for assets and the financial statement presentation of mixed corporations that must perform Credit Reform accounting using present value methodology? Would the corresponding liability of non-entity Fund Balance with Treasury be considered as "Not Covered by Budgetary Resources? If so, this would be a deviation from the current Credit Reform practices? Would RTB's dividends be considered fiduciary?
- The accounting examples provided in Appendix C might change depending on Credit Reform accounting treatment determinations.

Again, thank you for the opportunity to comment. If you have any questions, you may contact me at (202) 720-8977 or your staff may contact Charleta Dixon at (202) 720-4976.

Sincerely,

Donna F. Bateman

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From: <David.Berry@nlrb.gov>
To: <comesw@gao.gov>
Date: 7/30/03 2:02PM
Subject: OIG, NLRB Comments on Exposure Draft

The following comments are forwarded on behalf of the Office of Inspector General, National Labor Relations Board. We believe that the use of the term "Fiduciary" unnecessarily limits the disclosure that may otherwise be appropriate. An example of this issue from our Agency is back pay -- a sum of money collected from an employer and held by the Agency until it is paid to an employee. Back pay may be received directly by the Agency or in the form a check made payable to an employee. In either event, the courts have held that an employee does not an enforceable interest in back pay pending his or her actual receipt of it. The courts have also categorized the obligation to back pay as a debt owed to the Government. However, because the NLRB is prohibited from imposing a fine, back pay is considered a form of restitution and may not be retained by the Government as public revenue. For these reasons, back pay at this Agency does not fit the fiduciary requirements for footnote disclosure found in the exposure draft.

We recommend that the scope of exposure draft be expanded to include other assets that are held by the Government for the benefit of a third party but which do not create duties and responsibilities of a fiduciary relationship.

Dave Berry
Counsel to the IG
NLRB

CC: <Jane.Altenhofen@nlrb.gov>, <Emil.George@nlrb.gov>



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Advancing
Government
Accountability

2208 Mount Vernon Ave.
Alexandria, VA 22301-1314

PH 703.684.6931
TF 800.AGA.7211
FX 703.548.9367

www.agacgm.org

July 31, 2003

Ms. Wendy M. Comes, Executive Director
Federal Accounting Standards Advisory Board
Mailstop 6K17V
441 G Street NW, Suite 6814
Washington, DC 20548

Dear Ms. Comes:

On behalf of the Association of Government Accountants (AGA), the Financial Management Standards Board (FMSB) appreciates the opportunity to provide comments on the Federal Accounting Standards Advisory Board's (FASAB) Exposure Draft: *Statement for Federal Financial Accounting Standards -- Accounting for Fiduciary Activities*. This standard defines "fiduciary activities", defines when the term "fiduciary" will be required in general purpose Federal financial reports, and provides accounting and reporting guidance for fiduciary assets held by the Federal government.

The FMSB, comprised of 21 members with accounting and auditing backgrounds in federal, state, and local government, academia, and public accounting, reviews and responds to proposed standards and regulations of interest to AGA members. Local AGA chapters and individual members are also encouraged to comment separately.

The FMSB would like to offer the following responses to the specific questions included in the Exposure Draft:

1. **Do you agree with the definition of fiduciary activities? See paragraph 11 for the definition, paragraphs 12-14 for characteristics, and paragraphs 62-74 in the basis for conclusions for the rationale.**

The FMSB believes the definition of fiduciary activities is appropriate for this standard. The definition provides sufficient criteria for users to distinguish when a fiduciary relationship exists.

2. **Do you agree with the accounting treatment of fiduciary assets? See paragraphs 15-36 and 41 for the accounting standard with respect to Federal component entities; and, see paragraphs 37-40 and 41 for the**



standard regarding the Financial Report of the United States Government. See paragraphs 75-81 in the basis for conclusions for the rationale.

The FMSB could not reach a consensus on this question. While some members agreed with the accounting treatment, others did not understand the rationale behind the distinction between accounting for fiduciary assets not held in the name of the Federal entity (outside the Treasury) and those held in the name of the Federal entity (in or out of the Treasury) since we cannot identify any difference in the Federal government's responsibility. In addition, we could not find anything in the proposed definition of fiduciary activities which supports different accounting treatments based on whose name the assets are held.

3. Do you agree that the information in paragraph 32 should be required for note disclosure? See paragraphs 32-35 for the accounting standard and paragraphs 75-81 in the basis for conclusions for the rationale for the accounting treatment generally.

The FMSB believes that the requirements for note disclosure in paragraph 32 are reasonable and appropriate for the circumstances.

4. Do you agree with the requirement in paragraph 33 that, with respect to certain financial information required in paragraph 32, there should be separate columns for major activity, all other activity, and total activity? A fiduciary activity would be major if it is equal to or greater than 25 percent of the value of the entity's total fiduciary activity. If you do not agree, what display would you recommend?

The FMSB agrees with the provision to create separate columns for major activities constituting 25 percent or more of the value of the entity's total fiduciary activity, as it would provide users with a description of the material activities.

5. Do you agree that fiduciary assets held in the name of the Federal component entity should be reported in the Financial Report of the United States Government, that is, not eliminated during consolidation? See paragraphs 37-40 for the accounting standard and also see paragraph 77 in the basis for conclusions.

Ms. Wendy M. Comes, Executive Director
July 31, 2003
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The FMSB could not reach a consensus on this question given our response to question 2 above.

Again, the FMSB appreciates the opportunity to provide comments on this Exposure Draft. Should you have any questions, or desire further details on the FMSB's position, please contact me at MurrayC@michigan.gov or (517) 334-8050 or the FASAB facilitator, Barry Snyder, at barry.snyder@frb.gov or (202) 973-5003.

Sincerely,



Craig M. Murray, CPA, CIA, Chair
AGA Financial Management Standards Board

c: Mr. Jullin Renthrope, CGFM
AGA National President

From: "Jay Miller" <jami@loc.gov>
To: <comesw@fasab.gov>
Date: 7/31/03 10:32PM
Subject: Exposure Draft: Accounting for Fiduciary Activities

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The Library's comments for FASAB on the subject are as follows:

In general, the Library has no significant issues with the exposure draft except with the limitation on the use of the phrase "trust fund."

The Library of Congress Trust Fund Board Act of March 3, 1925, as amended (2 U.S.C. 154-163), created the Library of Congress Trust Fund Board, a quasi-corporation with perpetual succession. The Board has the usual powers of trustees, including the authority to (1) "accept, receive, hold, and administer such gifts, bequests, or devises of property for the benefit of, or in connection with the Library, its collections, or its service, as may be approved by the Board and by the Joint Committee on the Library;" (2) "invest, reinvest, or retain investments" after being receipted for by the Secretary of the Treasury; (3) deposit trust funds "with the Treasurer of the United States as a permanent loan to the United States Treasury, and the Treasurer shall thereafter credit such deposit with interest at a rate which is the higher of the rate of 4 per cent per annum or a rate which is 0.25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding long-term marketable obligations of the United States;" and (4) "adopt rules and regulations in regard to its procedure and the conduct of its business."

The Library has always referred to the funds accepted by the board as "trust funds" in all financial documentation, including our consolidated financial statements. Per our interpretation of the exposure draft, such reference to these funds as "trust funds" would be in violation of the proposed standard, as the "trust funds" cited above are non-fiduciary and only fiduciary trust funds should be referred to as "trust funds" in financial statements. The Library cannot fathom referring to these funds as anything other than trust funds and believes there will be significant confusion to the on-going users of our financial statements.

The Library is willing to cite our trust funds as "non-fiduciary" in the financial statements and provide necessary explanation of the distinction between "fiduciary" and "non-fiduciary." It is the recommendation of the Library that this approach be permitted by FASAB and be reflected as such in the final document.

In response to the questions posed in the exposure draft:

1. DO YOU AGREE WITH THE DEFINITION OF FIDUCIARY ACTIVITIES? SEE PARAGRAPH 11 FOR THE DEFINITION, PARAGRAPHS 12-14 FOR CHARACTERISTICS, AND PARAGRAPHS 62-74 IN THE BASIS FOR CONCLUSIONS FOR RATIONALE.

a. Yes, except as stated above.

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b. Deposit accounts do not seem to be specifically addressed in the exposure draft. We assume that deposit accounts with amounts from the public for unearned fees (in our case, unearned Copyright registration fees), advances without orders, etc. though technically due to the public until service is performed, are really unearned revenue and would not be included in the accounting for fiduciary activities.

2. DO YOU AGREE WITH THE ACCOUNTING TREATMENT OF FIDUCIARY ASSETS? SEE PARAGRAPHS 15-36 AND 41 FOR THE STANDARD REGARDING THE FINANCIAL REPORT OF THE UNITED STATES GOVERNMENT. SEE PARAGRAPHS 75-81 IN THE BASIS FOR CONCLUSIONS FOR THE RATIONALE.

a. Disclosure on the face of the balance sheet will require OMB to amend OMB 01-09, which directs that entity and non-entity not be separately stated on the face of the balance sheet. That bulletin directs that entity and non-entity be disclosed in the footnotes.

b. The Library agrees that provisions of this standard need not be applied to immaterial items and no note disclosure would be required if the fiduciary activity of a Federal entity were immaterial.

3. DO YOU AGREE THAT THE INFORMATION IN PARAGRAPH 32 SHOULD BE REQUIRED FOR NOTE DISCLOSURE? SEE PARAGRAPHS 32-35 FOR THE ACCOUNTING STANDARD AND PARAGRAPHS 75-81 IN THE BASIS FOR CONCLUSIONS FOR THE RATIONALE FOR THE ACCOUNTING TREATMENT GENERALLY.

a. Yes.

4. DO YOU AGREE WITH THE REQUIREMENT IN PARAGRAPH 33 THAT, WITH RESPECT TO CERTAIN FINANCIAL INFORMATION REQUIRED IN PARAGRAPH 32, THERE SHOULD BE SEPARATE COLUMNS FOR MAJOR ACTIVITY, ALL OTHER ACTIVITY, AND TOTAL ACTIVITY? A FIDUCIARY ACTIVITY WOULD BE MAJOR IF IT IS EQUAL TO OR GREATER THAN 25% OF THE VALUE OF THE ENTITIES TOTAL FIDUCIARY ACTIVITY. IF YOU DO NOT AGREE, WHAT DISPLAY WOULD YOU RECOMMEND?

a. Yes.

b. As the Library has only one fiduciary activity, we assume there is the option to have only one column.

5. DO YOU AGREE THAT FIDUCIARY ASSETS HELD IN THE NAME OF THE FEDERAL COMPONENT ENTITY SHOULD BE REPORTED IN THE FINANCIAL REPORT OF THE UNITED STATES GOVERNMENT, THAT IS, NOT ELIMINATED DURING CONSOLIDATION? SEE PARAGRAPHS 37-40 FOR THE ACCOUNTING STANDARD AND ALSO SEE PARAGRAPH 77 IN THE BASIS FOR CONCLUSIONS.

a. Yes

Any feedback regarding our response would be appreciated.

Jay S. Miller, CPA
Financial Reports Officer
Office of the Chief Financial Officer
Library of Congress
jami@loc.gov

CC: "John D Webster" <jweb@loc.gov>

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United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, D.C. 20240

JUL 31 2003

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pg 1 of 5

Ms. Wendy Comes
Executive Director
Federal Accounting Standards Advisory Board
441 G. Street, NW, Suite 6814
Mailstop 6K17V
Washington, DC. 20548

Dear Ms. Comes:

Thank you for the opportunity to comment on the Federal Accounting Standards Advisory Board (FASAB) Exposure Draft, "Accounting for Fiduciary Activities."

While we concur with the definition of Fiduciary Activities presented in the document, the Department of the Interior does not agree with the presentation of fiduciary assets as assets of either the Department of the Interior or the Federal Government.

The Department of the Interior is responsible for the management of over \$3 billion in Tribal and Individual Indian accounts. These amounts are maintained in approximately 1,400 Tribal and special accounts and 252,000 Individual Indian Monies accounts. The Department takes its management and reporting responsibilities over these assets very seriously. As part of this management responsibility, an annual stand-alone audit of Indian Trust Funds is performed each year by an independent accounting firm.

The Department believes that the proposed change in presentation is not appropriate for four reasons. First, this change would mislead the owners of the assets as well as users of Federal financial reports. Second, this change would misstate the assets of the Federal reporting entity and the Federal government. Third, this presentation is inconsistent with private sector trust accounting principles. Fourth, this change would not assist the Federal reporting entity in meeting the Objectives of Federal Financial Reporting. Further explanation of each of these points is provided below.

We believe that the presentation of privately owned assets within the financial statement of a Federal agency would mislead a reader as to the true ownership of those assets. The presentation of Trust Assets as part of the total assets of the Department could cause a reader to be misled about the assets, liabilities, and costs of government operations and the impact that these have on the financial condition of the nation. More importantly, this presentation could cause the true owners of the assets to question whether the government is properly managing their assets. Federal employees would rightfully be concerned about the security of their personal investments in the Thrift Savings Plan if these investments were shown as assets of a Federal agency. Likewise, the owners of the Trust Funds, Indian Tribes and individuals who have a very strong interest in the Department's management and reporting of these assets, would find it highly

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disconcerting to learn that their property was being "claimed" as assets of a Federal agency.

Second, the presentation of Trust assets in the financial statements of the Department would cause the total assets of the Department of the Interior to increase by over \$3 billion, even though these assets do not belong to the Federal government or any Federal entity. Assets are defined in Statement of Federal Financial Accounting Standards (SFFAS) Number 1 as "Tangible or intangible items owned by the federal government which would have probable economic benefits that can be obtained or controlled by a federal government entity." This definition was adapted from private sector accounting concepts. These Trust assets do not meet either the Federal or private sector definition of an asset since the asset is not owned by the Federal government, and cannot and will not provide any economic or operating benefits to a federal entity. Presentation of these items within "Total Assets" of a reporting entity is not correct. Likewise, we do not believe it would be appropriate or correct for the Federal government to present the assets of the Thrift Savings Plan, managed on behalf of Federal employees, as assets of the Federal government.

Third, rules governing banking activities in the private sector clearly differentiate between deposit-type activities and trust activities. Within the banking industry, there is a clear distinction between assets held on deposit, which are commingled with the assets of the financial institution, and assets held in trust. Assets held in trust are never commingled with a financial institution's other operations, nor are they presented as assets of the financial institution. In fact, this presentation is expressly prohibited. The Trust Fund assets are held by Interior in a fiduciary capacity and are not commingled with any other assets owned by Interior.

Fourth, the Objectives of Federal Financial Reporting are documented in Statement of Federal Financial Accounting Concepts (SFFAC) #1. Objective Number 2 of this document states that Federal financial reporting should assist users in:

- Evaluating the service effort, costs and accomplishments of the reporting entity;
- Evaluating the manner in which these efforts have been financed; and
- Evaluating the management of the entity's assets and liabilities

Objective Number 3 states that Federal financial reporting should assist users in:

- Assessing the impact of the government's operations on the nation; and
- Assessing how the nation's financial condition has changed and may change in the future.

The Department currently presents extensive footnote disclosures regarding the management of Trust assets, and the current Fund balances. We believe that the current disclosures thoroughly meet both the letter and the spirit of the above objectives. However, presenting these assets within as Total Assets of the government would

confuse the reader as to the government's true financial condition, including the assets available to the government to manage its operations.


The Board mentioned in the Exposure Draft, as partial support for changing existing standards and for the conclusions reached, that the Indian Trust funds were at one point part of the Federal Budget. The inaccuracy of the presentation of these assets as part of the Federal Budget became apparent as soon as the Department began preparing financial statements under the Chief Financial Officer's Act of 1990. This presentation was promptly corrected by Interior, the Office of Management and Budget, and the Congress. FASAB's Interpretation Number 1, "Reporting on Indian Trust Funds in General Purpose Financial Reports" provided necessary clarification until a legislative correction was made to remove these amounts from the Budget of the United States. Now that that has been accomplished, the Department's treatment of this activity is consistent with Statement of Federal Financial Accounting Concepts Number 2. The Board, in Interpretation Number 1, acknowledged that since the Government does not own the assets in these Funds, the Fiduciary Funds "should not be reported on the face of Interior's financial statements." We believe this position is still appropriate in fairly disclosing the financial position of the Department of the Interior.

Regarding the definition and use of the terms "fiduciary" and "trust" discussed in paragraph 5 and elsewhere, we agree that it is essential that the term "fiduciary" be limited to true fiduciary activities. However, given the number of uses of the term "trust" in the Federal environment, it is not appropriate to attempt to limit that term to be synonymous with "fiduciary." This would create more confusion than it would solve. Those trust funds which are comprised of Federally-owned assets and included in the balance sheet should be clearly differentiated from the very few true fiduciary activities performed by the Federal government.

In paragraphs 16 through 30 of the Exposure Draft, the Board suggests that the name under which investments are held is a driving force in determining the treatment of Fiduciary assets. We do not concur with this approach. Rather, the existence of a fiduciary relationship should be determined by the definitions and characteristics enumerated in paragraphs 11 through 14. The account names that may be used as fiduciary assets are invested and managed do not change the underlying nature of a legally-enforceable fiduciary relationship.

Thank you again for the opportunity to comment on this Exposure Draft. Interior's response to specific questions posed by the Board is enclosed. We would welcome the opportunity to discuss this matter further with the Board.

Sincerely,


P. Lynn Scarlett
Assistant Secretary-Policy,
Management and Budget

Enclosure

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1. Do you agree with the definition of fiduciary activities? See paragraph 11 for the definition, paragraphs 12-14 for characteristics, and paragraphs 62-74 in the basis for conclusions for the rationale.

Yes. We believe this definition accurately captures the distinction between true Fiduciary activities, and the myriad of activities classified as "trust funds" within the Federal environment.

We agree that the term "fiduciary" should be limited to those activities that meet the fiduciary definition. We also agree that activities that do not meet the fiduciary definition should not be described as fiduciary. However, with the number of uses for the term "trust" in the Federal environment, we do not believe it would be practical or appropriate to attempt to limit the definition or use of the terms "trust" and "trust fund".

2. Do you agree with the accounting treatment of fiduciary assets? See paragraphs 15-36 and 41 for the accounting standard with respect to Federal component entities; and, see paragraphs 37-40 and 41 for the standard regarding the Financial Report of the United States Government. See paragraphs 75-81 in the basis for conclusions for the rationale.

No. The fiduciary assets, Indian Trust accounts, held by the Department of the Interior are not assets of either the Department of Interior or the Federal Government.

We believe that the presentation of Trust Assets on the Balance Sheet of the Federal Government, or a component of the Federal Government, would be incorrect and misleading. This inaccuracy would not be corrected or clarified by use of the "Non-Entity" assets section of the statement, since that presentation refers to assets owned by the Federal Government as a whole.

These assets are owned by Indian Tribes and individual Indians who have a very strong interest in the Department's management and reporting of these assets. We do not believe that these stakeholders would support this presentation.

3. Do you agree that the information in paragraph 32 should be required for note disclosure? See paragraphs 32-35 for the accounting standard and paragraphs 75- 81 in the basis for conclusions for the rationale for the accounting treatment generally.

Yes. We believe that it is appropriate to disclose the assets managed in Trust by the Department in the Notes to the financial statements, provided that the disclosure in no way implies that these are assets of the Department. However, the example line items for

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categories of liabilities may not match Interior's situation. We would like to work with you to draft alternative examples.

4. Do you agree with the requirement in paragraph 33 that, with respect to certain financial information required in paragraph 32, there should be separate columns for major activity, all other activity, and total activity? A fiduciary activity would be major if it is equal to or greater than 25 percent of the value of the entity's total fiduciary activity. If you do not agree, what display would you recommend?

While we do not believe that this specificity is necessary in an accounting standard, we have no objection to these requirements.

5. Do you agree that fiduciary assets held in the name of the Federal component entity should be reported in the Financial Report of the United States Government, that is, not eliminated during consolidation? See paragraphs 37-40 for the accounting standard and also see paragraph 77 in the basis for conclusions.

No. We believe that it is just as inaccurate to present these assets as assets of Federal Government as it is to present them as assets of the Department of the Interior. However, the presentation of the statements of the Federal Government as a whole should not differ from the presentation on the statements of the Department.